

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

APL MICROSCOPIC, LLC,

Plaintiff,

v.

GREENE TECHNOLOGIES, LLC,

Defendant.

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1:19-CV-1044-RP

FINAL JUDGMENT

On July 22, 2020, the Court adopted United States Magistrate Judge Susan Hightower’s report and recommendation, (Dkt. 18), concerning Plaintiff APL Microscopic, LLC’s (“APL”) motion for default judgment, (Dkt. 15), overruling APL’s objections, (Dkt. 19). The Court granted in part and denied in part APL’s motion. It denied the motion as to APL’s request for statutory damages for willful infringement, a permanent injunction, and the nonrecoverable costs Judge Hightower identified, (*see* R. & R., Dkt. 18, at 12–13), and granted it in all other respects. As nothing remains to resolve, the Court now enters final judgment under Federal Rule of Civil Procedure 58.

1. APL is awarded default judgment against Defendant Greene Technologies, Inc.
2. APL is awarded **\$30,000** in actual damages, **\$8,786** in attorney’s fees, and **\$465** in costs.
3. APL is awarded prejudgment interest and postjudgment interest, both calculated pursuant to 28 U.S.C. § 1961.¹

¹ APL requests prejudgment interest “on the total sum at the annual percentage rate calculated pursuant to 28 U.S.C. § 1961 from January 17, 2019 through the date of this judgment.” (Prop. Order, Mot. Default J., Dkt. 15-6, at 1). The January 17, 2019, date refers to when “APL recorded the unauthorized use of the Work by [Greene] in a screen shot.” (Mot. Default J., Dkt. 15, at 4). Though the Fifth Circuit has not definitively concluded that prejudgment interest is permissible for violations of the Copyright Act, and the circuits are split on the issue, district courts within the Fifth Circuit often exercise their discretion to award prejudgment interest when the plaintiff proves actual damages, as is the case here. *Powell v. Penhollow*, 260 F. App’x 683, 691

4. The Court orders execution to issue for this judgment.
5. All relief not expressly granted in this judgment is **DENIED**.

SIGNED on July 22, 2020.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE

(5th Cir. 2007); see *Granville v. Suckafree Records, Inc.*, No. CIV.A. H-03-3002, 2006 WL 2520909, at *6 (S.D. Tex. June 28, 2006) (collecting cases); *Kingvision Pay-Per-View, Ltd. v. Valles*, No. EP-00-CA-179-DB, 2001 WL 682205, at *3 (W.D. Tex. Mar. 30, 2001) (awarding prejudgment interest after a showing of actual damages).